

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6606

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES DARNELL WINTONS,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Frank D. Whitney, Chief District Judge. (3:08-cr-00215-FDW-1; 3:13-cv-00150-FDW)

Submitted: October 13, 2016

Decided: October 18, 2016

Before NIEMEYER, DUNCAN, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

James Darnell Wintons, Appellant Pro Se. Kelli Hamby Ferry, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Darnell Wintons seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2012) motion. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (2012). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2012). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the motion states a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85. We have independently reviewed the record and conclude that Wintons has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal.

Additionally, we construe Wintons' supplemental informal brief as an application to file a second or successive § 2255 motion to challenge his sentence based on the decision in United States v. Johnson, 1235 S. Ct. 2557 (2015). See United States v.

Winestock, 340 F.3d 200, 208 (4th Cir. 2003). Because North Carolina robbery with a dangerous weapon, N.C. Gen Stat. Ann. § 14-87 (West 2014), qualifies as a violent felony under the force clause of 18 U.S.C. § 924(e)(2)(B)(i) (2012), Wintons' claim does not satisfy the criteria for authorization. See 28 U.S.C. § 2255(h) (2012). Therefore, we deny authorization to file a successive § 2255 motion.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED